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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 United States of America,

10 Plaintiff,

11 v.

12 Abelardo Gonzalez-Reyes,

13 Defendant.  
14

No. CR-22-01719-001-PHX-JAT

**ORDER**

15 Pending before the Court is Defendant Gonzalez-Reyes's Pro Se Motion for a  
16 Reduction of Sentence Pursuant to 18 U.S.C. Section 3582(c)(2). (Doc. 29). Defendant  
17 requests a sentence reduction under recent United States Sentencing Guidelines  
18 ("U.S.S.G.") Amendment 821, which (among other things) modified the status points  
19 provision. (*Id.*). The Motion was reviewed by a Federal Public Defender ("FPD") in  
20 accordance with General Order 23-20 (November 8, 2023). (Doc. 30). On April 26, 2024,  
21 the FPD filed a notice indicating that she would not supplement Defendant's pro se filing.<sup>1</sup>  
22 (*Id.*). Consistent with General Order 23-20, a supplemental presentence report was  
23 prepared and filed. (Doc. 31).<sup>2</sup>

24 **I. BACKGROUND**

25 On February 28, 2023, Defendant was sentenced pursuant to a plea agreement.  
26 (Docs. 26-27). Consistent with the plea agreement (Doc. 26), this Court sentenced

27 <sup>1</sup> It does not appear from the record that a copy of this notice was sent to the Defendant,  
28 pro se. However, a copy was sent to his original counsel, Loyd C Tate, who never withdrew  
as counsel.

<sup>2</sup> This document was not served on anyone.

1 Defendant to 28 months of imprisonment, (Doc. 27).

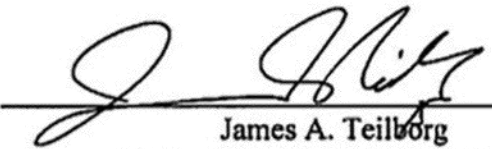
2 **II. DISCUSSION**

3 Defendant is not eligible for a reduction of sentence in this case because even using  
4 the amended guidelines, Defendant received a sentence below the amended guideline  
5 minimum. (Doc. 31).<sup>3</sup>

6 Accordingly,

7 **IT IS ORDERED** denying Defendant's Motion for a Reduction of Sentence  
8 Pursuant to 18 U.S.C. Section 3582(c)(2) (Doc. 29).

9 Dated this 4th day of June, 2024.

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James A. Teilborg  
Senior United States District Judge

24 <sup>3</sup> Additionally, in his plea agreement, Defendant expressly waived his right to file a motion  
25 for modification of sentence pursuant to 18 U.S.C. § 3582(c). (Doc. 26 at 5, lines 26-27).  
26 Thus, alternatively, because Defendant waived the right to file the currently pending  
27 motion, relief is denied. *See United States v. Villa-Luna*, No. CR-17-1764-01-TUC-CKJ,  
28 2024 WL 1240289, at \*2 (D. Ariz. Mar. 22, 2024) (“The Court finds, therefore, Villa-Luna  
has waived the right [to] request a reduction of sentence based on the amended guidelines  
regarding zero criminal history points.”); *United States v. Fernandez*, No. CR-21-0955-01-  
PHX-DLR, 2024 WL 915247, at \*1 (D. Ariz. Mar. 4, 2024) (same); *United States v.*  
*Maldonado*, No. CR-22-0890-01-TUC-DLR, 2024 WL 915223, at \*1 (D. Ariz. Mar. 4,  
2024) (same).